

Child Protection Committee

Information Sharing and Communication

Summary: The Vermont State Police report on the death of D.S. highlighted apparent breakdowns in communication, including:

- Information in DCF's possession that the mother's boyfriend was a potential caregiver for D.S. was apparently not shared with the Rutland Police Department, who failed to interview the boyfriend.
- The "Rutland County Deputy State's Attorney did not receive nor request the full DCF investigative file." Similarly, the attorney representing D.S. "did not receive, nor request, the full DCF ... file."
- Different units within DCF failed to share relevant information. Letter from Attorney General Sorrell to Commissioner Yacavone, June 11, 2014, pages 2-4.

In addition, witnesses testified that there are deficiencies in communication and information sharing between participants in the child protection system, including between DCF and:

- individuals who report child abuse and neglect;
- law enforcement officers and the parties to a CHINS proceeding; and
- the General Assembly and the public.

Some of these issues appear to relate directly to current law. For example, DCF can only release limited information to mandated reporters. Similarly, DCF can share the full investigative file with the State's Attorney or other parties to a CHINS proceeding, but only upon request. The Committee could propose amending existing law to address these issues. However, other communication issues brought to the attention of the Committee, such as information not being shared between different units within DCF, appear to have little to do with current law and, as a result, may need to be addressed in other ways.

I. Information sharing between DCF and individuals who report abuse and neglect

As discussed at the Committee's September 25, 2014, hearing, individuals who have information concerning suspected child abuse and neglect can call DCF's statewide intake unit to report the suspected abuse and neglect. These so-called "reporters" can be divided into two groups:

1. Mandated reporters: Individuals in certain occupations or positions, such as educators, who are required by law to report suspected abuse and neglect to DCF. Tab 10 contains more information on mandated reporters. 33 V.S.A. § 4913(a).
2. Nonmandated reporters: Individuals who are not mandated reporters can, but are not required to, report suspected abuse and neglect to DCF. 33 V.S.A. § 4913(c).

Current Law: Pursuant to 33 V.S.A. § 4913(b), DCF "shall inform" a mandated reporter of three things:

1. whether the report was accepted as a valid allegation or not;

2. whether an assessment was conducted, and whether a need for services was found; and
3. whether an investigation was conducted, and whether it resulted in a substantiation.

Therefore, DCF is required to provide some information to a mandated reporter, but not the reason(s) that a report was accepted or other details. In addition, 33 V.S.A. § 4913(e) states that the name and identifying information about a reporter or any other person mentioned in a report shall remain confidential. This would seem to limit what could be mentioned as to the subjects of an assessment or investigation.

DCF Policy and Practice: DCF Policy 51 requires that supervisors ensure that mandated reporters are informed whether their referral was accepted (page 16). However, various witnesses, who were mandated reporters, testified that they never received information, and/or the information arrived weeks or months late, and there was no detail provided.

Issues and Committee Options:

- Witnesses, including police chiefs, complained that mandated reporters received only general information as to whether a report had been accepted or not. However, 33 V.S.A. § 4913 limits what information can be provided to a mandated reporter and DCF seems to be following the statute as to the contents of its letters. If the Committee believes that more information should be provided, it could recommend that 33 V.S.A. § 4913 be amended to allow, or require, this.
- Witnesses who were mandated reporters complained that they never received a letter or, when they did, it was weeks or months late. Statute and DCF policy require that mandated reporters be informed of certain information. However, a DCF worker testified that because of her work load, letters to mandated reporters are given a low priority. Therefore, it appears that DCF practice does not always comply with statute or policy, perhaps as a result of resource issues. It is unclear how amending the statute would fix this problem.
- Currently, statute does not require that any information be provided to nonmandated reporters. If the Committee wants to require, or permit, a broader disclosure of information to nonmandated reporters, it could recommend that the statute be amended to allow this.
- Any broadening of the information provided to mandated or nonmandated reporters will raise confidentiality issues and any potential bill will have to ensure that various statutes are not in conflict.
- Judge Hayes proposed expanding the “cone of confidentiality” so that more information would be provided to schools and other entities involved in child protection, but any further release of confidential information would be prohibited and subject to penalties.

II. Information sharing between DCF, law enforcement, and the parties to a court proceeding

Current law: 33 V.S.A. § 4921 states that “upon request,” DCF:

- Shall release “the redacted investigation file” to parents, foster parents, guardians, and the person alleged to have abused the child. 33 V.S.A. § 4921(c). The redacted investigation file should include three reports (the intake report, investigation activities summary, and the case determination report) with confidential information removed. 33 V.S.A. § 4912(12).
- Shall disclose all records to a court, parties to a juvenile proceeding, GALs, law enforcement officers “engaged in a joint investigation,” a State’s Attorney or Assistant Attorney General, and “other State agencies conducting related inquiries or proceedings.” 33 V.S.A. § 4921(d).
- May disclose “relevant” records to service providers working with a person or child subject of a report, and “other governmental” entities for the purpose of child protection. DCF determines if a record is relevant or not. 33 V.S.A. § 4921(e).

DCF Policy and Practice: DCF Rules repeat the statutory language (Rules 9004.01, 9004.02, 9004.03) and Policy 56 states that upon request, investigative records shall be disclosed to law enforcement, the court, parties to a juvenile proceeding, Assistant Attorneys General, and State’s Attorneys (page 14). Commissioner Schatz testified on September 11, 2014, that under existing law there is “no legal impediment” to sharing information with law enforcement and service providers.

DCF practice seems to vary. For example, some participants in the CHINS process informed the Committee that DCF social workers refused to turn over information while other participants stated that there were no problems obtaining this information.

Issues and Committee Options: Current law requires that DCF release all records to law enforcement engaged in a joint investigation and to the parties to a CHINS proceeding upon request. As noted above, according to the State Police report, the attorney representing D.S. and the Rutland County Deputy State’s Attorney “did not receive nor request the full DCF investigative file.” Letter from Attorney General Sorrell to Commissioner Yacavone, June 11, 2014, pages 2–4. Therefore, it appears that the attorney and Deputy State’s Attorney did not request all of DCF’s records. Pursuant to 33 V.S.A. § 4921, DCF could not release those records without such a request. If the Committee wishes to remove this requirement, it could suggest that 33 V.S.A. § 4921 be amended to remove the “upon request” requirement. However, it is unclear if this change is necessary or would be helpful.

III. Information Sharing Between DCF, the General Assembly, and the Public

The Committee was briefed on potential oversight options, including a legislative oversight panel, on October 7th. Please see tabs 19 and 22 in your binder. The Committee was also briefed on approaches taken in other states as to releasing

information to the public concerning abuse and neglect cases on September 25th. Please see tab 13 in your binder. Statutory change may be necessary to create an oversight body or to increase the information provided to the public.